

DEPARTMENT OF COMMERCE

International Trade Administration

(A-821-809)

Initialed Draft Revision to the Agreement Suspending the Antidumping Investigation on Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Products from the Russian Federation; Request for Comment

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (“the Department”) and the Russian Federation’s Ministry of Economic Development (“MED”) have initialed a draft revision to the Agreement Suspending the Antidumping Investigation on Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Products (“Suspension Agreement”). The proposed revision will update the reference prices provided under the Suspension Agreement applicable to October 1, 2012 through December 31, 2012, to bring them into alignment with current U.S. prices. The Department is now inviting interested parties to comment on the text of the proposed revision.

DATES: Comments must be submitted by no later than November 23, 2012.

FOR FURTHER INFORMATION CONTACT: Sally C. Gannon at (202) 482-0162 or Anne D’Alauro (202) 482-4830, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, N.W., Washington, D.C. 20230.

Background

On July 12, 1999, the Department and the Ministry of Trade (“MOT”) of the Russian Federation signed an agreement under section 734(l) of the Tariff Act of 1930, as amended (“the

Act”), suspending the antidumping duty (“AD”) investigation on hot-rolled flat-rolled carbon-quality steel products (“hot-rolled steel”) from the Russian Federation. See Suspension of Antidumping Duty Investigation: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation, 64 FR 38642 (July 19, 1999). Upon the request of the petitioners, the investigation was continued and the Department made an affirmative final determination of sales at less than fair value. See Notice of Final Determination of Sales at Less Than Fair Value: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation, 64 FR 38626 (July 19, 1999). Likewise, the International Trade Commission (“ITC”) continued its investigation and made an affirmative determination of material injury to an industry in the United States. See Certain Hot-Rolled Steel Products from Brazil and Russia, 64 FR 46951 (August 27, 1999). MOT was the predecessor to MED, which is now the relevant agency representing the Government of the Russian Federation for purposes of this Suspension Agreement.

On August 1, 2011, Nucor Corporation (“Nucor”) submitted a request for an administrative review pursuant to Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review, 76 FR 38609 (July 1, 2011). On August 26, 2011, the Department initiated an administrative review of the Suspension Agreement. See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 76 FR 53404 (August, 26, 2011). On April 2, 2012, the Department postponed the preliminary results of this review until May 24, 2012. See Notice of Extension of Time Limit for the Preliminary Results of Administrative Review of the Suspension Agreement on Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation, 77 FR 19619 (April 2, 2012).

On June 1, 2012, the preliminary results of the administrative review were published. See Notice of Preliminary Results of the Administrative Review of the Suspension Agreement on Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation, 77 FR 32513 (June 1, 2012) (“Preliminary Results”). Section 751(a)(1)(C) of the Act specifies that, in an administrative review of a suspension agreement, the Department shall “review the current status of, and compliance with, any agreement by reason of which an investigation was suspended.” In this case, the Department and MOT (the predecessor to MED) of the Russian Federation signed the Suspension Agreement, which suspended the underlying AD investigation on July 12, 1999. Because the Department determined that the Russian Federation was a non-market economy at that time, the Suspension Agreement was entered into under section 734(*l*) of the Act, which applies to non-market-economy countries.¹ This section provides that the Department may suspend an investigation upon acceptance of an agreement with a non-market-economy country to restrict the volume of imports into the United States, if the Department determines that the agreement: is in the public interest, effective monitoring is possible, and the agreement “will prevent the suppression or undercutting of price levels of domestic products by imports of the merchandise under investigation.” See Section 734(*l*)(1) of the Act. For this purpose, the Suspension Agreement’s terms established annual quota limits and a reference price mechanism to provide minimum prices for sales of Russian hot-rolled steel imports into the U.S. market. The reference price mechanism relies on quarterly adjustments, based on the average

¹ In a memorandum dated June 6, 2002, based on the evidence of Russian economic reforms to that date, the Department revoked Russia’s status as a non-market-economy under section 771(18)(B) of the Act, with such revocation effective as of April 1, 2002.

unit prices of fairly-traded imports as reported by the U.S. Bureau of the Census, as specified under Section III.E of the Agreement.

In evaluating the information on the record of the administrative review with respect to the current status of, and compliance with, the Suspension Agreement, the Department preliminarily determined that the Suspension Agreement's reference price mechanism, in its current form, was no longer preventing price undercutting by Russian imports of hot-rolled steel into the U.S. market, and, as a result, also preliminarily determined that the Suspension Agreement was no longer fulfilling its statutory requirement. The record evidence indicated that the adjustments made quarterly within the Suspension Agreement's current reference price mechanism have failed to keep pace with changes in U.S. prices. Further, once the reference prices became too low relative to U.S. market prices, the subsequent quarterly adjustments were no longer effective in providing new reference prices that were reflective of U.S. market prices for hot-rolled steel. In addition, the record evidence and the Department's analysis indicated that the failing reference price mechanism, as described, has led to the undercutting of domestic hot-rolled steel price levels by Russian hot-rolled steel imports during the period of review ("POR"). In its Preliminary Results, the Department separately determined that the Government of the Russian Federation did not violate the terms of the Suspension Agreement during the POR.

In the Preliminary Results, the Department stated that, in February 2012, it had entered into consultations with MED to discuss the issues raised in the administrative review and the ineffective reference price mechanism and that it intended to move forward with additional consultations with MED during this administrative review, as mutually agreed, in an attempt to resolve these concerns and to bring the Suspension Agreement back into alignment with its statutory requirement to prevent the undercutting of domestic price levels for hot-rolled steel.

See Preliminary Results, at 32516. Since the preliminary results were issued, MED and the Department negotiated and initialed a revision to the Suspension Agreement to address the concerns with the ineffective reference price mechanism in the current agreement.

Initialed Draft Revision

On November 14, 2012, and November 15, 2012, respectively, the Department and MED initialed a draft revision to the Suspension Agreement. The proposed revision updates the reference prices provided within the Suspension Agreement for the October 1, 2012 through December 31, 2012, period in order to bring them into alignment with U.S. market prices and also modifies the existing mechanism for calculating percentage changes going forward. The text of the draft revision follows in Annex 1 to this notice.

On November 15, 2012, the Department released the initialed draft revision and a request for comments to interested parties. See Memorandum to All Interested Parties from Sally C. Gannon re “Draft Revision to the Agreement Suspending the Antidumping Investigation on Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation” (November 15, 2012) (“Request for Comments”). The Department noted in the Request for Comments that, although the draft revision and request for comments would be published in the *Federal Register*, the Request for Comments constituted the official notice to all known interested parties of this opportunity and that comments were due to be submitted to the Department by close-of-business on November 23, 2012. As also noted in the Request for Comments, any comments submitted to the Department must be filed both on the Suspension Agreement and Administrative Review segments of this proceeding.

With this additional notice, the Department reiterates that interested parties are invited to submit comments to the Department on the draft revision to the Suspension Agreement no later

than November 23, 2012. Comments from interested parties must be filed electronically using Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System ("IA ACCESS") and must be received by IA ACCESS by 5 p.m. Eastern Time by November 23, 2012. All information provided to the Department will be subject to release under Administrative Protective Order ("APO") and should be submitted in accordance with 19 C.F.R. § 351.103 and 19 C.F.R. § 351.105 of the Department's regulations, including the service of copies of comments on interested parties to this proceeding. The APO and public service lists in this proceeding can be found at the following website address:

<http://ia.ita.doc.gov/apo/apo-svc-lists.html>. The Department will consider all comments received by the close of the comment period. Any finalized revision to the Agreement must be signed by the Department and MED by November 30, 2012.

Ronald K. Lorentzen

Ronald K. Lorentzen
Deputy Assistant Secretary
for Import Administration

November 16, 2012

Date

Annex 1

DRAFT DATED NOVEMBER 14, 2012

REVISION TO THE ANTIDUMPING SUSPENSION AGREEMENT
ON HOT-ROLLED FLAT-ROLLED CARBON-QUALITY STEEL PRODUCTS
FROM THE RUSSIAN FEDERATION

The Agreement Suspending the Antidumping Investigation on Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation, signed on July 12, 1999, is revised as set forth below.

The Preamble is revised by adding the following paragraph to the end:

The Ministry of Economic Development of the Russian Federation (“MED”) and the Department of Commerce (“DOC”) acknowledge that, for purposes of the Agreement Suspending the Antidumping Investigation on Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation, as revised (“Agreement”), the successor in interest to MOT is MED. All references to MOT in this Agreement shall be understood to indicate MED.

Section III.C is revised, as follows:

III.C. The Reference Prices for the fourth quarter of the 2012 Export Limit Period, corresponding to October 1, 2012 through December 31, 2012, shall be updated by using the following procedure:

1. To update the Reference Price for Group One products, DOC shall average FOB U.S. mill (East of the Mississippi) prices for hot-rolled band (“HRB”) from the public source *SteelBenchmarker* for the two months, September and October 2012, resulting in \$684 per metric ton.²
2. DOC shall decrease the two-month average price resulting from Section III.C.1 by two percent to account for the percentage difference between the average *SteelBenchmarker* price and the average unit value of fairly-traded imports for the July 2010 through July 2012 period, resulting in \$670.32 per metric ton.
3. DOC shall adjust the price resulting from Section III.C.2 for freight and transportation expenses, using the following methodology. DOC shall calculate the freight and transportation expenses using publicly-available import statistics from the U.S. Bureau of the Census (from the International Trade Commission’s Dataweb) for January – June 2012. Based on the difference between the CIF values of Russian hot-rolled steel imports relative to the Customs values for the same entries during this period, DOC shall calculate the percentage ratio to be used as a deduction for freight and transportation expenses. DOC shall then subtract the resulting percentage amount of 10.23 percent

² Group One corresponds to the original grades in the reference price calculation under Section III.C of the Agreement, including modifications to that grade grouping made pursuant to administrative proceedings conducted over the course of the administration of the Agreement. See <http://ia.ita.doc.gov/reference-price/refprice-a821809.html> for the October 1, 2004 – December 31, 2004 quarter.

from the price calculated in Step 2 above to determine the updated Reference Price of \$601.75 per metric ton for Group One products for the October 1, 2012, through December 31, 2012, quarterly period.

4. DOC shall calculate the Reference Prices for products in Groups Two and Three for the October 1, 2012, through December 31, 2012, quarterly period based on a 10 and 28 percent increase, respectively, to the Reference Price calculated for Group One, as set forth above.³
5. The resulting updated Reference Prices for the October 1, 2012 through December 31, 2012, quarterly period are as follows:

Group	Q4 2012 Reference Price
One - Commercial and Structural Quality	
A36, A1011-CS A1011-SS-Grades 30, 33, 36, 40 A1018-SS-Grades 30, 33, 36, 40 API 5L Grades A & B	\$601.75
Two - HSLA & HSLA-F Quality	
Grades: A572, A1011-HSLAS A1018-HSLAS, A1011-HSLAS-F A1018-HSLAS-F API 5L Gr. X42, X46, X52, X56, X60 API 5CT Grades J55 and K55	\$661.92

³ Groups Two (including modifications) and Three were added to the reference price calculation, in accordance with Section III.D of the Agreement, and as a result of administrative proceedings conducted over the course of the administration of the Agreement. See <http://ia.ita.doc.gov/reference-price/refprice-a821809.html> for the October 1, 2005 – December 31, 2005 quarter.

Three - High Grade Coils and Sheets for Pipes and Casings	\$770.24
API 5L Gr. X65, X70, and X80	

Section III.E is replaced with:

III.E. Thirty days before the start of each quarter of each Export Limit Period (beginning with the first quarter, or January 1, 2013, through March 31, 2013), DOC shall calculate the new quarterly Reference Prices, based on the percentage increase or decrease in the weighted-average unit import values for hot-rolled steel from all countries not subject to antidumping duty orders or investigations over the most recent three months for which data is available, compared to the three preceding months. The source of the unit import values will be publicly-available import statistics from the U.S. Bureau of the Census (International Trade Commission's Dataweb). DOC will provide MED with the worksheets supporting its calculation of the quarterly Reference Prices at the time it provides the Reference Prices to MED. For the first calculation only, i.e., for the quarterly reference prices effective for January 1, 2013, through March 31, 2013, the Department shall delay issuance of the reference prices to MED until the U.S. Bureau of the Census releases data for October 2012 which shall be incorporated into this calculation.

To the extent that there are any inconsistencies between this revision and the Agreement, the provisions of the Agreement are superseded, and the provisions of this revision shall govern. All other provisions of the Agreement and their applicability continue with full force.

Ronald K Lorentzen

Deputy Assistant Secretary

for Import Administration

For the United States

Department of Commerce

Initialed by Ronald K Lorentzen on 11/14/12

Date: _____

Alexey Likhachev

Deputy Minister

For the Ministry of Economic

Development of the Russian Federation

Initialed by Alexey Likhachev on 11/15/12

Date: _____